

THIS bill was filed on the 14th day of July, 1828, by Charles Salmon against Elizabeth Clagett, Edmund Clagett, Samuel A.

corporation, on the ground of the unconstitutionality of the charter, refused. *Shipley v. R. R.*, 34 Md., 341.

When, upon proceedings instituted to condemn land for a railroad, the inquisition is returned to the Circuit Court, and, before any action is had thereon, the parties seeking the condemnation enter upon the premises and begin the construction of the road, such conduct is clearly unauthorized, and equity will enjoin such unlawful entry until the final action of the Circuit Court on the inquisition, and the actual payment of the damages in the event of the ratification of the inquisition. *New Central Coal Co. v. George's C. Co.*, 37 Md. 539. A company will be enjoined from making its road over the land of a party when it has not paid or tendered compensation for the land. *R. R. Co. v. Owings*, 15 Md. 199; *Harness v. Canal Co.*, 1 Md. Ch. 249. When a railroad company has a right under its charter to acquire a right of way over certain land by condemnation, and proceedings for such purpose are dispensed with by reason of the consent of the owner of the land to the construction of the road, and he subsequently, after the road has been built at large expense, revokes his consent, equity will restrain him from interfering with the company in the enjoyment of the right of way, pending proceedings to have the same condemned. *R. R. Co. v. Algire*, 63 Md. 319.

7. *Pertaining to clouds on title.* Equity will not allow a title, otherwise clear, to be clouded by a claim which cannot be enforced, either at law or in equity. *Holland v. Balto.* 11 Md. 186; *McCann v. Taylor*, 10 Md. 418. Under special circumstances, where the estate is in danger of being sacrificed in consequence of clouds upon the title, or conflict and confusion growing out of the number and character of the liens and incumbrances upon it, equity will interpose, and, keeping rival creditors off, sell the property for the general benefit of all. *Boyd v. Harris*, 1 Md. Ch. 467. A *bona fide* assignee of a mortgage has the right to file a bill to relieve the mortgaged estate from the cloud and embarrassment produced by the unfounded pretensions of a purchaser at a tax sale and his assignee, and to restrain such parties from interfering with the property. *Polk v. Reynolds*, 31 Md. 106. Cf. 55 Md. 410.

In *Welde v. Scotten*, 59 Md. 77, it is said that numerous cases are to be found where equity has interfered by injunction to prevent a sale about to be made, lest it should unwarrantably cloud the complainant's title, but that in none of the cases has the applicant alleged that the other party charged him with fraud in the procurement of his title, to such party's prejudice. In *Abrahams v. Tappe*, 60 Md. 317, a bill was filed by the owner of the reversion, who had brought ejectment and re-entered for non-payment of rent, against the mortgagee of the leasehold, for an injunction to restrain a sale under the mortgage, and to remove the cloud upon the title.

8. *Miscellaneous.* Where a party claiming title to land has acquiesced for a long period of time in its use as a burial ground, he and those claiming under him, will be restrained from interfering with so much of it as has been used as a burial place. *Boyce v. Kalbaugh*, 47 Md. 334. Injunction to prevent the removal of a wooden building in the City of Baltimore, on the ground of the invalidity of the ordinance requiring such removal, refused. *Moale v. Balto.* 56 Md. 496. Injunction granted to restrain parties from making an unauthorized use of a meeting house. *Gübert v. Arnold*, 30 Md. 37. Where, pending exceptions to a Chancery sale, the reported purchaser assumed the power to rent the property, it was held that as it was not alleged that the property was subject to waste in the hands of the purchaser